

REMARKS

The Office Action mailed December 17, 2004 has been carefully considered.

Appended hereto is a Petition for Extension of Time Under 37 CFR 1.136(a) along with the required fee.

Claims 16, 19-21, 23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,481,075 (Dastoli et al). Applicant respectfully traverses this position taken by the Examiner.

Dastoli et al. discloses a flower shipping container that includes a basket 50 having an upper metallic wire ring 52 and a lower ring 54 that are welded to vertical wire U-shaped braces 56 and 58. The basket is intended to receive several bunches of cut flowers.

In rejecting Claims 16, 19-21, 23 and 25, the Examiner has deemed the basket 50 as a support for non-floral items. In fact, the basket 50 functions to support the cut floral items. The Examiner has deemed braces 56 and 58 as being support rods to which a non-floral item is secured. In fact, the members 56 and 58 are an integral part of the basket 50 and function to space apart the rings 52 and 54 to retain the cut flowers within the basket. There is absolutely no teaching that non-floral items are intended to be secured to the members 56 and 58. The Examiner has deemed the upper ring 52 to be a non-floral item. Ring 52 is an integral part of the basket 50 that supports the cut flowers. Further, the ring 52 is adapted to surround the bouquet of flowers and is not supported "in" the bouquet of flowers.

Further, the Examiner has deemed the rods 56 and 58 to be "bundled" by a common support base 54. In fact, member 54 is a further ring of support that is welded to the support rods 56 and 58 in a manner in which they are spaced apart to receive a bucket such as 36. Thus, the support rods are clearly not bundled as that term is used in the specification.

Further, the claims recite that the support is integrated within the bouquet and clasped in said bundle of floral items. This relationship is clearly not present in Dastoli et al. The support rods 56 and 58 are not integrated within the flowers. In fact, they are outside of the flowers. If the rods 56 and 58 were integrated within the flowers, the Dastoli et al. device

would not function in its intended manner.

It is respectfully submitted that the Examiner is stretching his interpretation of the Dastoli et al. patent beyond which is reasonable. It is not appropriate to consider prior art structural members in a manner which is not even remotely related to the intended function of such members.

The Examiner has acknowledged that the rods 56 and 58 are not bendable. Making these members bending will not provide more space for the flowers. The only motivation to make these members bendable is through inappropriate hindsight reconstruction gleaned only from applicant's disclosure.

In view of thereof, Claims 16, 19-21, 23 and 25 are patentable over Dastoli et al.

Claim 19 recites that said supporting rod is inserted into a fastener to which said non-floral item is secured. The term fastener refers to a structural element. The fact of ring 52 being welded or soldered to rods 56, 58 does not show a structural element for fastening. An insertion of a supporting rod into a fastener cannot be found in Dastoli et al.'s teaching, either.

Claim 20 recites that said supporting rod is inserted in two different directions which is not shown in Dastoli et al.'s teaching, either.

Claim 21 recites an adhesive surface of the fastener, which is not shown in Dastoli et al.'s teaching, either.

Due to the fact that Dastoli et al. does not teach the structural features of the support, it cannot show a method according to Claim 23 or Claim 25, either, the method steps of which are directly linked to said structural features.

Grotepass (DE 38 19 981) refers to the winding of roller-heated rod-shaped refined steel wire and a device therefore. Besides the fact that refined steel wire is mentioned, a connection to the invention of the present application cannot be seen at all. It cannot be concluded from the mere fact that refined steel-wire is known as such, that this material is an obvious choice for the support according to Claim 16.

Niwa (1-207711) refers to polyethylene surface coatings on steel-wires. Besides the

fact that the material polyethylene as such is mentioned, a connection to the invention according to the present application cannot be seen at al. Niwa's teaching has no connection to a fastener for non-floral items in a bouquet for flowers.

Payne (U.S. 649,874) describes a support with rods ending in loops (right column of page 1, lines 62-64, figures 1 and 2). The flowers are to be inserted through said loops so that a tree-like arrangement holding individual flowers is created. There is no mention of a bouquet of flowers having a bundle of floral stems at its lower end and of the support shown by Payne being integrated and held therein. Further, the support of Payne is not adapted for holding non-floral items but for holding flowers.

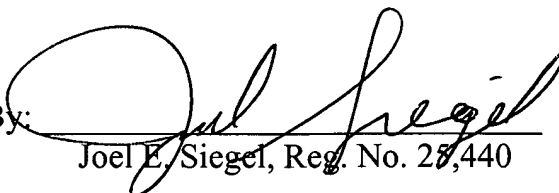
Thus, the teaching of Payne is distant from the invention according to the present invention. It has already been reasoned above why the teaching of Dastoli et al. is distant as well. Thus, independent of whether bands B according to Payne are comparable to the shiftable rings according to present Claim 24, both documents fail to teach the basic method of Claim 24 (in which the bending step of the rods at the location of said shiftable ring is integrated). The arguments are the same as with regard to product Claim 16 or method Claim 23.

In view of the above, it is respectfully submitted that Claims 16-25 are now in condition for allowance.

Respectfully submitted

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